

REMARKS

Claims 1 and 36-74 are pending in the instant patent application. Claims 2-35 were previously cancelled. Herein, no claims have been amended. Further examination and reconsideration is respectfully requested in view of the claims and the remarks and arguments set forth below.

CLAIM REJECTIONS

35 U.S.C. §103 Rejections

Claims 1 and 36-74 are rejected under 35 U.S.C. §103(a), as being unpatentable over Kenner et al. U.S. Patent No. 6,665,706 (hereinafter Kenner) in view of Perlman et al U.S. Patent No. 6,141,693 (hereinafter Perlman). Applicants have reviewed the cited references and respectfully submit that the embodiments of as recited in Claims 1 and 36-74 are not rendered obvious by Kenner and Perlman, alone or in combination, for at least the following rationale.

Claims 1, 36-60

Attention is directed to independent Claim 1, which recites a method for managing a streaming media service, said method comprising (emphasis added):

receiving a request for a streaming media service from a client, said streaming media service comprising a media service component;
selecting a service location manager to which to provide said request from a plurality of service location managers, said service location manager configured for selecting a service provider from a plurality of service providers;
selecting said service provider to which to assign said media service component from a plurality of service providers of a network;
informing said service provider of said assignment to perform said media service component, causing said service provider to prepare to perform said streaming media service on streaming media;

using information to determine whether to initiate a handoff of said streaming media service from said service provider to another service provider; and

if it is determined to initiate said handoff, initiating said handoff.

Independent Claim 54 recites features similar to those of independent Claim 1. Claims 36-53 depend from independent Claim 1 and recite further features of the claimed invention. Claims 55-60 depend from independent Claim 54 and recite further features of the claimed invention.

Applicants respectfully submit that Kenner does not teach, describe, or suggest the claimed feature of “selecting a service location manager to which to provide said request from a plurality of service location managers, said service location manager configured for selecting a service provider from a plurality of service providers,” (emphasis added) as is recited in Claims 1 and 54. The rejection suggests “using a MSP to select a service provider” (page 3, line 15 of the Rejection).

“If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification” (MPEP 2143.01(V)). Moreover, “[I]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious” (emphasis added; MPEP § 2143.01(VI)).

As understood by Applicants, an MSP of Kenner “exercises a management function of the distribution of delivery sites 26, 28, and 30, and over the allocation of requests to the original and delivery sites from user terminals 12 16, and 20...,” (see col. 7, line 66 - col. 8, line 5 of Kenner); “[t]his management function is facilitated by the use of a configuration utility 34 and a client program 36 run within a storage medium (i.e. random access memory) on the user terminal 12” (col. 8, lines 6-9 of Kenner). Applicants submit that the Rejection’s proposal of “using a MSP to select a service provider” (page 3, line 15 of the Rejection) clearly changes the operation of Kenner’s MSP from managing distribution of delivery sites to managing selection of service providers. Applicants submit that this change of operation renders Kenner unsuitable for its intended purpose, as the MSP would not be exercising its management function over delivery sites. Thus there can be no motivation for using Kenner in this fashion. Additionally, Applicants submit that such a change in the principle of operation of Kenner is impermissible, and the use of Kenner in this fashion (even in combination with Perlman) is insufficient to render Claims 1 and 54 *prima facie* obvious.

Further, “[a]s reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Applicants note that “[t]he prior art reference (or references when

combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)). Applicants respectfully submit that Kenner in view of Perlman does not teach, describe or suggest all claim limitations.

For example, Applicants respectfully submit that Kenner is silent with regard to “selecting a service location manager to which to provide said request from a plurality of service location managers, said service location manager configured for selecting a service provider from a plurality of service providers,” (emphasis added) as recited in Claims 1 and 54. As indicated above, the rejection (page 3) contends that Kenner teaches this feature by “using a MSP to select a service provider; in col. 7, line 63-67, col. 8, lines 1-5.” Applicants disagree, and submit that an MSP as defined by Kenner does not perform the function of a “service location manager” as recited in Claim 1.

Additionally, per Applicants’ understanding, Kenner teaches a system with only one MSP (mirror service provider). See Figure 1, item 32 of Kenner. Thus even if a mirror service provider of Kenner could be equated to a service location manager as recited in Claims 1 and 54, there is no teaching of “selecting a service location manager...from a plurality of service location managers” as there is only one MSP in the system taught by Kenner. Therefore, for this additional reason Applicants submit that Kenner does not teach, describe or suggest “selecting a service location manager to which to provide said request from a plurality of service location

managers, said service location manager configured for selecting a service provider from a plurality of service providers” (emphasis added) as recited in Claims 1 and Claim 54.

Per Applicants’ understanding, Perlman offers no teaching to remedy either of these shortcomings of Kenner, and further, no explanation is provided in the Rejection as to why these differences between the claimed feature and the prior art of Kenner and Perlman would have been obvious to one of ordinary skill in the art. Thus for these additional reasons, Applicants submit the combination of Kenner and Perlman does not render obvious the features of Claims 1 and 54.

Further, Applicants submit that Kenner does not teach, describe, or suggest the feature of “selecting said service provider to which to assign said media service component from a plurality of service providers of a network,” (emphasis added) as is recited in Claims 1 and 54. For example, the instant Rejection recites, “Kenner does not teach a streaming media service comprising a media service and selecting said service provider to which to assign said media service component from a plurality of service providers of a network,” (emphasis added) Office Action mailed September 4, 2007; page 4, lines 12-14.

Applicants submit that Perlman does not remedy this shortcoming of Kenner. The Rejection contends that:

Perlman teach this by a server 605 which is located between multiple sources and a client. This server transcodes or filters the stream from the source before it is sent to the client (Figure 6, transcoding: column 6, specifically lines 30-67; filtering: column 9, lines 1-10. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the functions of the server of Perlman with the MSP of Kenner.

(page 4, lines 16-18 of the Rejection)

Applicants disagree with this contention. Although the cited portion of Perlman may teach “three alternative implementations for merging auxiliary digital data with a raw video input stream,” only one server (505, 605, 705) is taught in any one of the alternative implementations. Thus, even if an MSP of Kenner could be operated in the fashion of a service location manager, there is no plurality of service providers taught, described or suggested by Perlman. Thus, even if a server of Perlman could be equated to a service provider, Pearlman teaches only a single server, rather than “a plurality of service providers of a network,” as recited in Claims 1 and 54. Therefore, for this additional reason, Applicants submit that Kenner in combination with Perlman does not render obvious Claim 1 or Claim 54.

Further still, Applicants submit that Kenner is silent with respect to the limitation of, “informing said service provider of said assignment to perform said media service component, causing said service provider to perform said streaming media service on streaming media,” as is recited in Claims 1 and 54. The rejection (page 3, line 20 - page 4, line 2) contends that Kenner teaches this limitation by “sending stream to client after quality of service standards are met; column 13, lines 1-10.” However, Applicants disagree. A reading of the cited section shows no such teaching regarding quality of service standards. Rather, Applicants understand the cited section to refer to a visual interface upon which a user “terminal 12 and delivery sites are displayed as ‘blips’ superimposed over a map...” Per Applicants’ understanding, Kenner is, in fact, silent with respect to any delivery site which is capable of performing a media service component. Thus it is not possible for Kenner to “inform said service provider of said assignment to perform said media service component.”

Moreover, per Applicants' understanding, Perlman offers no teaching to remedy this shortcoming of Kenner, and further, no explanation is provided in the Rejection as to why this difference between the claimed feature and the prior art of Kenner and Perlman would have been obvious to one of ordinary skill in the art. Thus for this additional reason, Applicants submit the combination of Kenner and Perlman does not render obvious the features of Claims 1 and 54.

Accordingly, Applicants respectfully submit that the basis for rejecting independent Claims 1 and 54 under 35 U.S.C. § 103(a) is traversed and that, as a result, Claims 1 and 54 are in condition for allowance. Furthermore, Applicants respectfully submit that the basis for rejecting Claims 36-53 (that depend from independent Claim) and Claims 55-60 (that depend from independent Claim 54) under 35 U.S.C. § 103(a) is also traversed as these claims depend from allowable base claims, and consequently Claims 36-53 and 55-60 are also in condition for allowance.

Claims 61-74

Attention is respectfully directed to independent Claim 61, which recites a system for providing streaming content to a client device, said system comprising (emphasis added):

a plurality of service location managers, each service location manager capable of managing a handoff of a service based on information received;
a plurality of service providers, each service provider capable of performing said service on an item of streaming input content to produce said streaming content; and ...

Claims 62-74 depend from independent Claim 61 and recite further features of the claimed embodiment.

Applicants respectfully submit that the combination of Kenner in view of Perlman does not teach, describe, or suggest the claimed embodiment in the manner set forth in independent Claim 61. For example Applicants submit, Kenner does not teach, describe, or suggest “a plurality of service location managers” as is recited in Claim 61.

As described above, Applicants submit that the Rejections’ proposal of assigning to the MSP of Kenner the functionality of a service location manager (and in this case the functionality of a plurality of service location managers) clearly changes the operation of Kenner’s MSP from managing distribution of delivery sites to managing selection of service providers. Applicants submit that this change of operation renders Kenner unsuitable for its intended purpose, as the MSP would not be exercising its management function over delivery sites. Thus there can be no motivation for using Kenner in this fashion. Further, Applicants submit that such a change in the principle of operation of Kenner is impermissible, and the use of Kenner in this fashion (even in combination with Perlman) is insufficient to render Claims 1 and 54 *prima facie* obvious. Further, Applicants submit that including Perlman in combination with Kenner does nothing to remedy these deficiencies.

Moreover, Applicants respectfully submit that Kenner is silent with respect to, “a plurality of service location managers” as is recited in Claim 61. The Rejection (page 9) contends that this limitation is taught in col. 12, lines 36-42 and col. 13, lines 1-60 of Kenner. However, Applicants have reviewed the cited sections and can find no such teaching. At most, the Applicants understand Kenner to teach a single Mirror Service Provider (see item 30 of

Kenner's Figure 1) and a plurality of delivery sites (see items 26, 28, and 30 of Figure 1). Even assuming that the MSP of Kenner can be equated to a "service location manager" of Claim 61 (and Applicants dispute this as detailed above), Kenner teaches a system (Figure 1) that relies upon only one mirror service provider. Thus per Applicants' understanding, a single mirror service provider of Kenner does not teach, suggest, or describe, "a plurality of service location managers," as recited in Claim 61.

Per Applicants' understanding, Perlman offers no teaching to remedy this shortcoming of Kenner, and further, no explanation is provided in the Rejection as to why this difference between the claimed feature and the prior art of Kenner and Perlman would have been obvious to one of ordinary skill in the art. Thus for this additional reason, Applicants submit the combination of Kenner and Perlman does not render obvious the features of Claim 61.

Furthermore, Applicants respectfully submit that Kenner is silent with respect to, "a plurality of service providers, each service provider capable of performing said service on an item of streaming input content to produce said streaming content," as recited in Claim 61. Per Applicants' understanding, Kenner may teach a plurality of delivery sites managed by a single MSP (see col. 7 line 60 - col. 8, line 5 of Kenner). However, as described by Kenner "a deliver site is a "node" on the network which may store data or other files, such as software code for delivery. The term can also include a site which is responsible for data delivery, including mirror sites, content providers, and servers for broadcast video streams or Web sites," col. 7, lines 60-65 of Kenner. Though a delivery site of Kenner may deliver content, per Applicant's

understanding, Kenner does not teach suggest, or describe that a delivery site is capable of performing any form of service on an item of streaming content.

Per Applicants' understanding, Perlman offers no teaching to remedy this shortcoming of Kenner, and further, no explanation is provided in the Rejection as to why this difference between the claimed feature and the prior art of Kenner and Perlman would have been obvious to one of ordinary skill in the art. Thus for this additional reason, Applicants submit the combination of Kenner and Perlman does not render obvious the features of Claim 61.

Accordingly, Applicants respectfully submit that the basis for rejecting independent Claim 61 under 35 U.S.C. § 103(a) is traversed and that, as a result, Claims 61 is condition for allowance. Furthermore, Applicants respectfully submit that the basis for rejecting Claims 62-74 that depend from independent Claim 61 under 35 U.S.C. § 103(a) is also traversed as these claims depend from allowable base claims, and consequently Claims 62-74 are also in condition for allowance.

CONCLUSION

It is respectfully submitted that the above claims, arguments, and remarks overcome all rejections. For at least the above-presented reasons, it is respectfully submitted that all remaining claims (Claims 1 and 36-74) are in condition for allowance.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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